

## **MITIGATED NEGATIVE DECLARATION**

February 19, 2004

Project Name: La Cresta Tanksite Grading Permit

Project Number(s): L14385, Log No. 03-14-008

**This Document is Considered Draft Until it is Adopted by the Appropriate  
County of San Diego Decision-Making Body.**

This Mitigated Negative Declaration is comprised of this form along with the Environmental Initial Study that includes the following:

- a. Initial Study Form
  - b. Environmental Analysis Form and attached extended studies for Biological Resources, Noise, Archaeological Resources.
1. California Environmental Quality Act Mitigated Negative Declaration Findings:

Find, that this Mitigated Negative Declaration reflects the decision-making body's independent judgment and analysis, and; that the decision-making body has reviewed and considered the information contained in this Mitigated Negative Declaration and the comments received during the public review period; and that revisions in the project plans or proposals made by or agreed to by the project applicant would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; and, on the basis of the whole record before the decision-making body (including this Mitigated Negative Declaration) that there is no substantial evidence that the project as revised will have a significant effect on the environment.
2. Required Mitigation Measures:

Refer to the attached Environmental Initial Study for the rationale for requiring the following measures:

A. Prior to issuance of grading permits the applicant shall:

- 1) Grant to the County of San Diego and the California Department of Fish and Game an open space or conservation easement as shown on the Open Space Exhibit dated **November 17, 2003** on file with DPLU as Environmental Review Number **ER 03-14-008**. This easement is for the protection of biological resources and prohibits all of the following on any portion of the land subject to said easement: grading; excavation; placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities; trash dumping; or use for any purpose other than as open space. Granting of this open space authorizes the County and its agents to periodically access the land to perform management and monitoring activities for the purposes of species and habitat conservation.

The sole exception(s) to this prohibition is:

- a. Selective clearing of vegetation by hand to the extent required by written order of the fire authorities for the express purpose of reducing an identified fire hazard. While clearing for fire management is not anticipated with the creation of this easement, such clearing may be deemed necessary in the future for the safety of lives and property. All fire clearing shall be pursuant to the Uniform Fire Code and the Memorandum of Understanding dated February 26, 1997, between the wildlife agencies and the fire districts, and any subsequent amendments thereto.

NOTICE: The above gives the applicant the option to voluntarily dedicate a Conservation Easement. Should the applicant choose to dedicate a Conservation Easement (instead of an open space easement) and upon fulfillment of the requirements for permanent mitigation and management of preserved areas as outlined in Section 17.1 (A) of the County's Implementing Agreement for the Multiple Species Conservation Program (MSCP) Plan, Third Party Beneficiary Status can be attained for the project. Third party beneficiary status allows the property owner to perform "incidental take" under the State and Federal Endangered Species Acts, of species covered by the MSCP Plan while undertaking land development activities in conformance with

an approval granted by the County in compliance with the County's Implementing Agreement. Should Third Party Beneficiary Status not be obtained, the applicant will be required to obtain take authorization for the State and Federal listed species covered by the MSCP Plan through the traditional permitting processes administered by the State and Federal Wildlife Agencies.

- 2) Grant to the County of San Diego an easement which prohibits the construction or placement of any residence, garage, or other accessory structure designed or intended for occupancy by humans or animals, as shown on Open Space Signage exhibit dated **November 17, 2003** on file with the Department of Planning and Land Use as File Number **ER 03-14-008**. The purpose of this easement is to prohibit such structures, because an area containing sensitive biological resources (encumbered by an open space easement) exists adjacent to said area, and the clearing of vegetation or other fuel modification measures which are normally required by fire protection officials within a specified distance of such structures, is potentially damaging to the integrity of those biological resources. The easement shall permit the construction or placement of only the following:
  - a. Decking, fences, and similar facilities.
  - b. Sheds, gazebos, and detached garages, less than 250 square feet in total floor area, that are designed, constructed and placed so that they do not require clearing or fuel modification within the biological open space easement, beyond the clearing/fuel modification required for the primary structures on the property.
  - c. Structures located no less than 30 feet from the nearest biological open space easement boundary, provided that the structures meet the minimum Fire-Resistive Construction Requirements as defined by the Fire Protection Authority (FPA) having jurisdiction over the property and that FPA has approved in writing a reduction in the vegetation clearing / fuel modification requirements so that they will not be required within any portion of the biological open space easement.
- 3) Submit to the Director, Department of Planning and Land Use a signed, stamped statement from a California Registered Engineer,

or licensed surveyor that temporary fences have been placed to protect from inadvertent disturbance all open space easement(s) that do not allow grading, brushing or clearing. Temporary fencing is required in all locations of the project where proposed grading or clearing is within 100 feet of an open space easement boundary. The temporary fence location shall be identified in the field by a California Registered Engineer or licensed surveyor and positioned between the open space easement boundary and any area of proposed disturbance. All temporary fencing shall be removed only after the conclusion of such activity. The temporary fencing condition shall be released on a parcel-by-parcel basis.

- B. At the completion of all grading activities but prior to final approval from the Department of Public Works, submit to the Director, Department of Planning and Land Use a signed, stamped statement from a California Registered Engineer, or licensed surveyor that permanent fences or walls have been placed to protect from inadvertent disturbance all open space easement(s) that do not allow grading, brushing or clearing. Permanent fencing or walls are required in all locations of the project as shown in the Open Space Fencing Plan dated **November 17, 2003** on file as **ER 03-14-008** with the Department of Planning and Land Use. The permanent fence location(s) shall be identified in the field by a California Registered Engineer or licensed surveyor and positioned just outside of the open space easement. Photographs and a brief description of design and materials used shall be submitted with the statement from the California Registered Engineer. Construction materials and fence and/or wall design are subject to approval by the Department of Planning and Land Use. Minimum fence or wall height shall be 4 feet.
- C. At the completion of all grading activities but prior to final approval from the Department of Public Works, submit to the Director, Department of Planning and Land Use evidence that permanent signs have been placed to protect all Open Space Easements in accordance with on the Open Space Signage exhibit dated August 1, 2003 on file with the Department of Planning and Land Use as File Number ER 00-13-005. Evidence shall include photographs of a sign placed on the project and a stamped, signed statement from a California Registered Engineer, or licensed surveyor that permanent signs have been placed on the open space easement boundaries in accordance with the requirements of this condition. The signs must be corrosion resistant and 6 inches x 9 inches minimum in size, on posts not less than 3 feet in height from the ground surface and must state the following:

“Sensitive Environmental Resources  
Disturbance Beyond this Point is Restricted  
By Easement

Information:

Contact County of San Diego, Department of Planning and Land Use  
Ref: **ER 03-14-008**”

- D. Restrict all brushing, clearing and/or grading such that none will be allowed during the migratory bird breeding season of the California gnatcatcher. This is defined as occurring between February 15 and August 31. The Director of Planning and Land Use, may waive this condition, through written concurrence from the US Fish and Wildlife Service and the California Department of Fish and Game, that no California gnatcatchers are present in the vicinity of the clearing, brushing or grading.

II. **DEPARTMENT OF PLANNING AND LAND USE**

Prior to approval of the grading plan, add the following to the grading plan:

1) **STAGING AREA**

Prior to approval of the grading permit, the following shall be shown on the grading permit:

Activities within 100 feet south of the project boundary shall be restricted and prohibits all of the following: grading; excavation; placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities (including staging, turnaround, and parking); and trash dumping for the protection of cultural resources.

2) **TEMPORARY FENCING FOR ARCHAEOLOGICAL SITES**

Prepare and implement a temporary fencing plan for the protection of archaeological site, CA-SDI-13135 during any grading activities within one hundred feet (100') of said site. The fencing plan shall be prepared in consultation with a qualified archaeologist, to the satisfaction of the Director of the Department of Planning and Land Use. The fenced area should include a buffer sufficient to protect the archaeological site. The fence shall be installed under the supervision of the qualified archaeologist

prior to commencement of grading or brushing and be removed only after grading operations have been completed.

3) NOISE CONDITIONS

- a. Prior to the commencement of drilling activities, certify the rock drills with a letter report from a County-certified acoustical consultant to the satisfaction Director of the Department of Planning and Land Use that demonstrates their maximum noise performance (sound pressure level) does not exceed 94 decibels (dBA) at a reference distance of 50 feet or less.
- b. Be prohibited from all other construction activities during any 24-hour period when drilling or blasting work is being done on this project site.
- c. Be prohibited from any construction activities during the extended breeding season of February 15 through August 31 when biological surveys have documented the presence of sensitive avian species such as the California Gnatcatcher within 900 feet of the project.
- d. Specify the placement of temporary sound attenuation barriers around all bore site locations on Lot 1 prior to the commencement of any drilling work. The minimum height of this barrier is eight feet relative to the pad elevation of the drill site. These barriers shall be positioned to break the line of sight from the drill rig to the closest adjacent property lines or residences along the eastern edge of the project site. A temporary barrier shall consist of  $\frac{3}{4}$ -inch thick exterior plywood mounted on 4 inches by 4 inches wooden posts that is overlapped with no gaps or openings facing the drill site. Alternate materials may be substituted for wood but they shall have a minimum composite STC rating of 28.

3. Critical Project Design Elements That Must Become Conditions of Approval:

The following project design elements were either proposed in the project application or the result of compliance with specific environmental laws and regulations and were essential in reaching the conclusions within the attached Environmental Initial Study. While the following are not technically mitigation measures, their implementation must be assured to avoid potentially significant environmental effects.

None.

**ADOPTION STATEMENT:** This Mitigated Negative Declaration was adopted and above California Environmental Quality Act findings made by the:

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on \_\_\_\_\_

JOSEPH FARACE, Planning Manager  
Department of Planning and Land Use

JF:EM:tf

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